

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

JOHNNY D. FLOYD, SR.,

Petitioner,

v.

CIVIL ACTION NO. 5:23-cv-00472

K. HECKARD,

Respondent.

ORDER

Pending is Respondent’s Motion to Dismiss [ECF 13], filed February 4, 2025. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Aboulhosn filed his PF&R [ECF 15] on February 24, 2025. Magistrate Judge Aboulhosn recommended the Court grant Respondent’s Motion to Dismiss [ECF 13] and remove the matter from the Court’s docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent

objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on March 13, 2025. No objections were filed.¹

Accordingly, the Court **ADOPTS** the PF&R [ECF 15], **GRANTS** Respondent’s Motion to Dismiss [ECF 13], and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: April 1, 2025



A handwritten signature in black ink that reads "Frank W. Volk".

Frank W. Volk
Chief United States District Judge

¹ On March 7, 2025, a notification of “Mail Returned as Undeliverable” was filed denoting that the Proposed Findings and Recommendation sent to Plaintiff was returned. Specifically, the mail was not resent because Plaintiff was released on September 30, 2024, and no address was available. [ECF 16]. Plaintiff has failed in his duty to keep his address current with the Clerk’s Office.